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OFFICE OF PETITIONS

In re Application of :
Robert H. Bateman et al :
Application No. 10/734,055 :
Filed: December 11, 2003 :
Attorney Docket No. 03-MM-03 :
85.80038/006 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 7, 2005, and resubmitted on June 9, 2006, and on June 13, 2006, requesting withdrawal of the above-identified application from issue.

The petition is dismissed as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on August 9, 2005, with the issue fee being due on or before November 9, 2005. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of August 9, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The \$130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2881 for appropriate processing of the RCE filed November 7, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions